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FEW REMARKS



ON THE PROPOSED

COMMUTATION OF TITHE,

WITH

SUGGESTIONS OF SOME ADDITIONAL FACILITIES.

BY THE

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REMARKS,

&c.

THE sketch of a Bill which follows has been drawn up for some time. As far as it has been privately circulated, it has secured (almost without exception) the suffrages of persons holding the most opposite opinions as to the Church and tithe. Still, had its provisions been inconsistent with those of the Ministerial plan, it would not, probably, have been now printed. I am too fully persuaded of the advantages which must result from any fair plan of commutation, to have opposed even the most insignificant obstacle to the adoption of that of the government, which (excepting some of its details) is certainly fair. But I think it will be seen that the plan here suggested would carry the aim and spirit of the government proposition into effect more easily, more promptly, and more efficiently, than the Bill submitted, or rather described, to the House.

The object of the Government appears to be to convert the whole of the English tithe into corn-

rents *for the present*. I say *for the present* ; because, if it were meant that the whole of the English tithe should *permanently* remain in the form of corn-rents, the measure would obviously be most objectionable. The existence of the whole revenue of the Church in the shape of corn-rents would convert the clergy at once into direct burthens on the incomes of the landowners ; and this would be too unpopular a state of things to last. The landowners would grow weary and irritated under a charge, from which no management or exertions could ever clear their estates or families ; and the existence of such a feeling, in such a body, would make the position of the clergy both painful and dangerous.

In justice to the plans of his Majesty's Ministers, therefore, it may be assumed that their object is to adopt corn-rents, in the first instance, as a simple and uniform mode of abolishing tithe, leaving, to be hereafter authorised and set in motion by subsequent bills, the redemption or purchase of those corn-rents by the landed body, and the subsequent re-investments of the purchase-money by the clergy in land or other securities.

It seems highly probable, however, that the whole operation would be more quickly and smoothly performed if the conversion of tithes into

other shapes besides corn-rents were permitted and encouraged immediately.

I propose, therefore, to give all tithe-payers the choice of redeeming their tithes for, 1st., Money ; 2dly, Land ; 3dly, Mortgages ; 4thly, Corn-rents. The mortgages and corn-rents to be at once assignable and saleable by the Church.

This plan will accommodate the tithe-payers more, and therefore, we may presume, will be more popular and rapid in its execution than that at present proposed.

Some persons have land which it would be convenient for them to offer, and desirable that the clergy should accept, in lieu of tithe. Others feel that they could pay off a mortgage by instalments, and leave their estates freed to their children. Others have ready money to advance, and utterly dislike either incumbering their estates, or parting with their land. All such persons, under a permissive bill legalising a variety of equivalents, would probably cheerfully commute their tithes in the mode best suited to each ; while all might hang back reluctantly, perhaps sullenly, from creating a charge in the shape of a corn-rent, which (as far as the present Bill is concerned) might cling in perpetuity to their property and descendants.

The time which the whole operation would con-

sume, too, would obviously be much less than if corn-rents were to be bargained for during one period, and the sale and redemption of those corn-rents postponed to another period.

I will give, then, the Sketch of a Bill for effecting the varied commutation I have been pointing out, and then add a few remarks.

SKETCH OF A BILL, &c.

Such a bill might be divided into five parts.

The object of the first part would be to establish powers to sell or exchange all ecclesiastical tithe, (*lay* tithe will be spoken of hereafter.)

Of the *second* part, to empower all holders of titheable land to purchase tithes, and to advance equivalents in various shapes.

Of the *third* part, to establish in proper hands such a control over the contracts and over the equivalents when received, as may guard against fraud, negligence, or waste.

Of the *fourth* part, to establish a central board in London, which may give union and facilities to the operations going on in different dioceses, and be the instrument of effecting other purposes, hereafter to be described.

Of the *fifth* part, to declare certain parts of the bill, and those only, applicable to the sale or exchange of *lay* tithe.

FIRST PART.

The object of this part is to give the necessary power to sell or exchange all ecclesiastical tithe. This might be done by enacting that all incumbents and ecclesiastical bodies may legally sell or exchange their tithes for such various considerations, and under such control, as to the mode of making their contracts, and disposing of the equivalents received, as should be specified in another part of the bill.

SECOND PART.

The object of this part is to empower all holders of titheable lands to purchase their tithes, and to advance equivalents in various shapes.

To effect this, tenants for life, entail minors, mortgagees in possession, married women, &c., must be authorised to purchase with proper powers and indemnifications to guardians, trustees, &c.

All purchasers may be allowed to advance as may be agreed on, in each individual case, either

Land,

Money,

Mortgages payable within a limited time,
but saleable and assignable from the moment of their execution.

Rent Charges in corn, also saleable from the time of their creation.

The tithe-owner must be empowered to accept any of these various considerations, and must also have a power (subject to the regulations and control to be presently mentioned) to sell, or exchange, any of such equivalents, from the instant they become his.

THIRD PART.

The object of this part, is to establish, in proper hands, such a control over the contracts, and over the equivalents when received, as may guard against fraud, negligence, or waste.

For this purpose there might be established in every diocese, one or more diocesan boards. (N. B. There would be a central board in London, the constitution of which will be found in the next part of the bill.) The details of the formation of the diocesan boards need not be much gone into. The Bishop of course would be president—there would be other ecclesiastics, and probably some lay-

men. The Lord Lieutenants, the County Members, the Chairman of Quarter Sessions, and a few eminent country Gentlemen residing near the County or Cathedral towns.

These boards should meet at least once a month; three might act; but to ensure the attendance of three, a sufficient number must be nominated.

Duties of these Boards.

Whenever a contract is made by an incumbent, it must be transmitted within a week to this diocesan board. It will be the first duty of the board to see that the assent of the patron, or of those empowered to act for the patron, is affixed.

When the contract, and the assent of the patron, are thus before them, it will be their next duty to satisfy themselves, that no suspicion of fraud, collusion, or gross error in valuation, attaches to the transaction. When once satisfied on these points, they may proceed to endorse their approval, and the parties may go on to conveyance.

If the board doubted as to the propriety of the contract, they might take time to make inquiries. First, by rural Deans perhaps, or any neighbouring clergyman, and finally, if necessary, by surveyors, (appointed by them, and approved of by the parties, or *vice versâ*.)

They might at last refuse assent, or grant it at their discretion.

It would be the next duty of such diocesan boards, to receive all monies which should pass upon such contracts, and to deal with such monies as hereafter mentioned. No discharge or conveyance to the purchaser to be valid without their receipt ; and so also in all cases of subsequent sales, assignments, or exchanges of the equivalents received.

These boards will remit to the central board all monies so received by them, to be at once invested in public securities. While the monies remain so invested, they will give authority to the incumbents to receive the proceeds (subject to certain deductions) half-yearly.

When the operation of redeeming the tithes has been completed, and it is proposed to invest in land, or other approved property, or security, any of the equivalents received, the diocesan boards will have power to draw at once out of the hands of the central board all, or any part of such monies. Upon all such cases of reinvestment, they will exercise the same discretion and the same powers, as in the case of an original sale of tithes.

FOURTH PART.

The object of this part of the bill, is to establish a central board in London, which may give union and afford facilities to the operations going on in different dioceses, and be instrumental to some other purposes.

The duties of this board would depend a good deal upon what might be determined as to the form or forms, which Church property should ultimately assume. Should it be resolved that, as soon as is consistent with convenience and policy, the whole of that property should be invested in land, or in corn-rents, then the duties of the central board would be comparatively easy. All the Bishops would of course be ex-officio members, and some of the great officers of state, perhaps too the judges; there must be one paid member, who would probably be a barrister; a clerk and messenger would complete the establishment.

This board would be the London agent of all the diocesan boards, and would have a money account with each (not with individual incumbents.)

When monies were received by the diocesan boards, either in direct payments for tithes, or in discharge of mortgages, re-sale of lands, &c. &c., the central board would receive and invest them,

and would pay the proceeds half-yearly to individuals furnished with orders from the diocesan boards. They would sell out, and remit to the diocesan boards when reinvestments were made in the country.

The central board, too, whenever minors, trustees, tenants entail, &c., were concerned, would protect their interests, and facilitate their transactions, in cases both of *lay* and ecclesiastical tithe, by receiving and investing monies, authorising purchases and sales, and performing, in short, all the functions performed by the board of Land-tax in like cases.

In case it should be determined to keep other securities for a time, and not land or corn-rents exclusively, it would then be necessary to institute a fund, to guard against the depreciation of money, and the central board would manage and ultimately distribute that fund; at all events a small per centage upon all Church property should, I think, be reserved, to provide for expenses, and guard against accidents; and this the central board would manage.

FIFTH PART.

The object of this would be, to declare certain parts of the bill, and those only, applicable to the sale and exchange of *lay* tithe.

The nature and details of this part of the bill will be obvious. It would have no relation to the duties of the diocesan boards.

It would empower guardians, trustees, and minors to act, either in selling, buying, or exchanging tithes for land.

It would enable the central board to assist their operations by funding money, giving discharges, &c.

Especially it would give a priority, and certain advantages to securities given in exchange for lay tithe, similar to the priority given to securities for ecclesiastical tithe; advantages which would much accelerate the commutation of the lay tithe.

Such is a general sketch of the measure proposed. There would, of course, be details, which would require attention. It will be observed that it has been throughout assumed, that the parties agree upon the price of the tithe, or that where difficulties occur an actual valuation is to be made. The government measure, as I understand it, directs that the actual receipt for the last seven years shall be

taken as decisive of the actual value: with a power of adding or subtracting ten per cent. There are serious objections to this:—1st. Every one must know that the actual receipts are very defective evidence of the value of a living. 2dly. If this plan is adopted, no two parishes will redeem their tithe at the same proportion of their real value. 3dly. All the advantage will be on the side of the exacting and severe, and all the disadvantages on the side of the moderate and lenient clergymen. 4thly, (and this is much more important,) That class of livings will be the most seriously injured by the plan which all parties wish especially to favour and assist; namely, the smaller livings, on which, by the abolition of pluralities, it is proposed to establish resident clergymen. A great number of these livings have been in the hands of non-residents. Their small amount has made the absent rector or vicar little disposed to take much trouble about their revenue, and they are very commonly compounded for much under their value. The tying them down for the future to this inadequate composition will be no great boon to the landed body. It will surely not be just, and will produce the great inconvenience of impoverishing for ever the revenues of the resident incumbents, whom it is meant to place on such small livings—revenues which, fairly and fully

collected, are certainly not likely to be more than adequate to the duties and expenses of the appointment. And finally, it is quite notorious that, in other instances where the composition is grossly inadequate, that composition is, in a great majority of cases, more than seven years old.

It may be thought that the machinery of the diocesan and central boards is likely to be expensive and cumbersome. A little consideration will shew that this is not the case.

Under the government plan it has been assumed to be tolerably clear, that the corn-rents would only be one stage towards the ultimate investment of the property of the church in land and other securities. Whenever it is so invested, there must be some machinery to control its mutations, the bargains, sales, and exchanges of its owners. No part of the church property should be so invested as to be locked up in mortmain (supposing it to be in land,) or to constitute a perpetual charge upon any other particular property, if it is not in land, but securities. Now, the machinery established under the bill here sketched out would be efficient for managing all such future changes, and it would be cheap. The local boards need cost very little. Their secretary might, perhaps, be paid by the appropriation of some piece of cathedral preferment to be in future

attached to the office. Without some such local superintendence, it would be obviously impossible to control the transactions of all the English livings. The central board would have but one paid member, and, with all its establishment, need not cost much. One halfpenny in the pound on the income of the church would more than pay all its necessary expenses ; and, independently of its use in managing future changes in ecclesiastical property, some such body as the central board will be wanted for other objects, both lay and ecclesiastical. In the case of ecclesiastical tithe, there may be trustees, married women, tenants entail, and minors, among the payers of tithe. In the case of lay tithe such persons will abound among both sellers and buyers of tithe. To facilitate their bargains—indeed to make them possible—some such machinery as that of the central board will be indispensable. It was found so in the analogous case of the redemption of the land-tax. There are other reasons why, in this case, some superintending authority will be wanted, and that for a considerable period. The most convenient and safe investment of ecclesiastical property will probably be found to be a mixed investment. Let us suppose it invested one-fourth in land, one-fourth in mortgages, one-fourth in rent charges or corn-rents, and one-fourth in public securities. It

would still be necessary to proceed in the purchase of the land very gradually, and with great precaution—very gradually, or the sum thrown at once into the market would affect injudiciously and unfairly the market value of land—with many precautions, or a landed investment, would be the most ruinous of all investments for the church. The land bought must not have too many buildings, must be of tolerable quality, capable of being so let as not to leave the clergyman dependant on the solvency of one individual for his income: and there are other points to be attended to. Now, such purchases cannot be made every day, or even every year. It would probably take more than twenty-five years so to invest one-fourth of the proceeds of the English tithe, and in the interval some public machinery for controlling and securing the property held by the incumbents would be essential.

The bill I have sketched, it will be observed, is merely permissive. It would be easy to add stimulus or compulsion to any extent. For instance, if laymen refused to redeem their tithe, then, after a certain time, strangers might be let in to purchase (as in the case of the land-tax). If the clergyman refused, then, after a certain time, the diocesan boards might commute without him. If the operation still lingered, power might be given, after a

longer time, to either party to compel the other to commute, as in the present bill, for a corn-rent. But it would be wise, surely, to give a longer time than twelve months for voluntary and amicable arrangements. It would be uselessly harassing the tithe-payers to compel them to commute for a corn-rent to be afterwards sold for money, and the proceeds invested in land or securities, when they, the tithe-payers, could more conveniently, and at once, advance the land, the money, or the securities, which are the ultimate objects of the operation. If any period is to be allotted to voluntary commutation, that is the period, surely, during which all possible facilities and inducements will be the most needed. To tell the parties, that you wish them to commute voluntarily, but that, out of three or four obvious modes of commutation, you will allow voluntary commutation only in one, is a tolerably sure mode of disappointing your own wishes.

Much of the plan proposed by government it will be at once seen is perfectly consistent with the more varied plan proposed here. I again repeat that the ministerial proposition appears to me substantially a fair one, in spite of objections to its details, and especially to the seven years' receipts as a criterion of value. But feeling convinced that so great a mass of corn-rents can only be a temporary invest-

ment for the English tithe, I am also convinced that much accommodation and many facilities, to both parties, will be gained by accepting now, in the *first instance*, the various equivalents I have pointed out, and establishing at once the machinery necessary to guide and control the present investment and future sales and exchanges of the new property of the church. Any tithe not redeemed for one or other of the equivalents legalised might, of course, at the end of some reasonable period, be still compulsorily commuted for corn-rents.

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